

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

	)	
CUSTOMINK, LLC,	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 1:15cv1177
	)	
PRINTFLY CORPORATION	)	
d/b/a RUSHORDERTEES.COM,	)	
Defendant.	)	
	)	

MEMORANDUM OPINION

THIS MATTER comes before the Court on Defendant Printfly Corporation d/b/a Rushorderteas.com's Motion to Compel Production of Documents and to Overrule the Objections Raised During Ms. Maxwell's Deposition and Reopen the Deposition for Further Testimony (Dkt. 50).

The Court notes that defendant improperly filed its motion at 11:34pm on Friday, January 29, rather than by 5:00pm as required. Moreover, the notice was not filed until Saturday January 30. Lastly, the Court finds that defendant's counsel failed to properly meet and confer about the alleged discovery deficiencies (other than those for which plaintiff indicated it would stand on its objections). One email with a chart identifying the alleged deficiencies was sent on the afternoon of Friday, January 29, which did not allow time for a meaningful discussion. Normally the Court would not entertain a motion

under these circumstances, but it will rule on the motion in this instance.

As to Requests for Production of Documents 14, 15, 16, 18, 19, 20, 28, 29, 37, 38, 51, and 52, the Court finds that plaintiff's objections are proper. Neither party has asserted claims for damages that would entitle defendant to obtain plaintiff's financial records.

As to the remaining Requests for Production of Documents to which defendant claims plaintiff has not responded, the Court finds that the electronically searchable emails need not be identified with specificity in each document response. Additionally, plaintiff's supplemental discovery response satisfies any remaining claim of deficiencies. If defendant's counsel had properly engaged in a meaningful meet and confer about those remaining Requests for Production of Documents responses, there may have been no need to file a motion with regard to those.

As to the instruction to Ms. Maxwell to not answer certain deposition questions, the Court finds that the invocation of privilege was appropriate as to her discussions with counsel, and the questions relating to an unrelated investigation years earlier were irrelevant.

Thus, the Court finds defendant's motion to be without merit and it is denied. An appropriate order shall issue.

/s/

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THERESA CARROLL BUCHANAN  
UNITED STATES MAGISTRATE JUDGE

February 5, 2016  
Alexandria, Virginia